

Revenue Information Bulletin No. 16-006
February 5, 2016
Individual Income and Corporation Income Taxes

**Act 425 Withholding Requirements Regarding Expenses Claimed for
Motion Picture Investor Tax Credit**

Act 425 of the 2015 Regular Session of the Louisiana Legislature requires withholding on all income that is expended in the state and will be claimed as an eligible expense for purposes of the Motion Picture Investor Tax Credit, which is created by R.S. 47:6007. Specifically, the requirements of the amended statute, R.S. 47:164(D)(2), are applicable to “any individual receiving any payments for the performance of services used directly in a production activity, which payments shall be claimed as a production expenditure for purposes of certification of tax credits...” Further, the withholding is required by “any motion picture production company, motion picture payroll services company, or other entity making or causing to be made payments...to an individual, or to an agent or agency, loan-out company, personal service company, employee leasing company, or other entity.” In such an instance, taxes are required to be withheld at “the highest individual rate of six percent, or the highest individual rate in effect at the time.

The purpose of this Revenue Information Bulletin is to provide guidance on the new requirements and to answer questions which are frequently asked by taxpayers regarding Act 425.

- 1.) Is the 6% withholding on loan-out companies required by Act 425 reported under the withholding account of the motion picture payroll company or the motion picture production company?

The withholding is reported under the account of the motion picture payroll company or the party responsible for withholding and remitting on behalf of the loan-out company.

- 2.) Is the motion picture production company required to register for a withholding account in order to remit the 6% withholding?

No, as previously established, the withholding is reported under the account of the motion picture payroll company or other party responsible for withholding and remitting. In such instance, the motion picture payroll company or other party responsible for withholding and remitting should obtain one account for its own employees and a separate account for persons receiving payments for the performance of services used directly in a production activity which payments will be

claimed as a production expenditure for purposes of receiving a motion picture investor tax credit.

- 3.) Is the 6% loan-out company withholding reported any differently to the Department of Revenue than regular employee withholding?

No, the withholding is reported quarterly in the same manner but is remitted to the separate account established for persons receiving payments for the performance of services used directly in a production activity which payments will be claimed as production expenditure. In addition, the motion picture payroll company or other party responsible for withholding and remitting will need to submit a quarterly report for each motion picture production in Excel format using Form R-6165-Act 425 Quarterly Report.

- 4.) Who gets credit for the 6% withholding on a payment to a loan-out company, the loan-out corporation or the individual?

The withholding is credited to the individual, who will file either a nonresident or resident Louisiana income tax return.

- 5.) Does the motion picture payroll company need to issue any special form to the loan-out company reflecting the 6% withholding?

Yes, an annual statement which reflects the amounts withheld and remitted on behalf of each loan-out company as reflected in the quarterly reports.

- 6.) What are the filing requirements of the loan-out company?

In addition to the quarterly filing of Form R-6165 as provided above, each loan-out company must submit an L-3 to the Department of Revenue and submit either a W-2 or 1099 where applicable to each person receiving compensation for the performance of services.

- 7.) Is the 6% withholding applied to the gross payment without regard to allowances for dependency credits claimed by the individual?

Yes, Act 425 mandates withholding at the current highest individual rate of 6%.

- 8.) Does the withholding only apply to projects that are claiming the motion picture investor tax credit?

Yes, the withholding requirement applies to any payments claimed as a production expenditure for purposes of certification of tax credits.

9.) When and by whom is the administrative fee of \$200 dollars submitted?

The \$200 dollar administrative fee that is applicable per motion picture production is to be submitted by the motion picture production company that will ultimately apply for a motion picture investor tax credit. It should be submitted by the motion picture production company upon receipt of the initial certification letter from the Louisiana Department of Economic Development. A copy of the initial certification letter, Form R-6160-Act 425 Fee Voucher, and payment should be sent to the following address:

Tax Credit Registry
P.O. Box 1071
Baton Rouge, LA 70821

For questions concerning this matter, please contact the Policy Services Division at (225) 219-2780. For questions concerning a taxpayer's account, please contact the Customer Contact Center at (855) 307-3893.

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